

MEMO ENDORSED

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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 5/27/2021

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

In Re Navidea Biopharmaceuticals Litigation

Case No.: 1:19-cv-01578-VEC

NOTICE OF MOTION

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law of Michael M. Goldberg, M.D. in support, and upon all prior pleadings and proceedings had herein, Defendant/Counterclaim Plaintiff/Third-Party Plaintiff Michael M. Goldberg, by and through his undersigned attorneys, will move this Court, before the Honorable Valerie E. Caproni, United States District Judge, at the Thurgood Marshall United States Courthouse, 40 Foley Square, Courtroom 443, New York, New York 10007, (i) striking the purported “Response” and accompanying attorney declaration with exhibits [Dkt. Nos. 201 and 202] improperly filed by Plaintiff/Counterclaim Defendant Navidea Biopharmaceuticals, Inc. (“Navidea”) with respect to Dr. Goldberg’s Objections to the Report & Recommendation of Magistrate Judge Debra Freeman dated April 21, 2021 [Dkt. No. 198], and (ii) granting Dr. Goldberg such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that any opposing affidavits and answering memoranda to this motion shall be served within fourteen (14) days after service of the moving papers, and any reply affidavits and reply memoranda shall be served within seven (7) days after service of the answering papers pursuant to Local Rule 6.1(b).

Dated: Westchester, New York
May 26, 2021

Respectfully submitted,

/s/ Gregory Zimmer

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Application DENIED. The Court has not and will not consider Navidea's Response to Goldberg's objections in reviewing Magistrate Judge Freeman's R&R. Accordingly, the Court sees no reason to strike Navidea's response. The Court also notes that Goldberg himself previously filed a response to Navidea's objections to a prior R&R regarding Goldberg's fee application. See Dkt. 129.

The instant motion is a waste of both the attorneys' and the Court's time and resources and demonstrates precisely why courts must evaluate fee requests for reasonableness.

SO ORDERED.



HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE

5/27/2021